

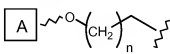
Remarks

Claims 56, 58-62, 65-67, 69-76, 78-81, 84-86, and 88-98 are currently pending in the application. Claims 56, 58-62, 65-67, 69-71, 73-76, 78-81, 84, 86, 88-90, 92-95, 97, and 98 currently stand rejected. Claims 72, 85, 91, and 96 are objected to. Claims 72, 85, 91, and 96 have been rewritten in independent form. New claim 99 incorporates the elements of claim 62 and depends upon amended claim 72. New claim 100 incorporates the elements of claim 67 and depends upon amended claim 72. New claim 101 incorporates the elements of claim 81 and depends upon amended claims 85 and 91. New claim 102 incorporates the elements of claim 86 and depends upon amended claim 91. Applicant submits that no new matter has been introduced by these amendments. The rejections levied in the Office Action are addressed individually below.

1. **Rejections under 35 U.S.C. § 102(e).** Claims 56, 58-62, 65, 67, 69-71, 73-76, 78-81, 84, 86, 88-90, 92-95, 97, and 98 currently stand rejected under 35 U.S.C. § 102(e), as being anticipated by Danishefsky *et al.* (U.S. Patent 6,660,714). In order to remove the '714 patent from consideration by the Examiner, Applicant previously submitted a Declaration under 37 C.F.R. § 1.132 by Professor Samuel Danishefsky stating that the claimed invention was not invented by another. The Examiner asserts that "the statement that the co-inventors of the '714 patent were working only under the direction of Danishefsky is not persuasive" and that "in such a scenario the '714 patent should not carry the names of individuals as inventors wherein said individuals did not contribute to the process of the invention." It is not the Applicant's intent to question in any way the inventive contributions of Sames, Hintermann, Chen, Schwartz, Glunz, and Kuduk to the claimed subject matter of the '714 patent. Sames, Hintermann, Chen, Schwartz, Glunz, and Kuduk as well as Danishefsky are properly named inventors on the '714 patent. In order to bring clarity to this issue and to overcome this rejection, Applicant has submitted a Declaration herewith under 37 C.F.R. § 1.132 that any invention disclosed but not claimed in the '714 reference was derived from the inventors of the instant application and is thus was not invented "by another."

The Examiner also stated that the Declaration filed previously was “insufficient to overcome the instant rejection because the invention is claimed rather than disclosed in the ‘714 patent.” Applicant respectfully disagrees. The claims of the ‘714 patent are directed toward methods of treating cancer, methods of inducing antibodies, *etc.* The ‘714 patent does not claim glycopeptide constructs or pharmaceutical compositions as described and claimed in the instant application. Therefore, the claimed invention of the ‘714 patent does not include all the limitations of the claimed invention of the present application. Applicant respectfully submits that any invention disclosed but not claimed in the ‘714 patent was derived from the inventors of the instant application (*i.e.*, Danishefsky, Allen, Ragupathi, Livingston, Williams) and requests that the rejection be removed.

2. Obviousness-type Double Patenting. The Examiner rejects claims 56, 58, 59, 60-62, 65, 69-71, 78-81, 84, 86, 88-90, 92-95, 97, and 98 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-47 of U.S. Patent 7,160,856 (the ‘856 patent). Applicant respectfully disagrees. The ‘856 patent claims glycoconjugates wherein the carbohydrate domains are separated from the peptide backbone by one carbon atom. The present application claims multiantigenic glycopeptides comprising a peptide backbone made up of at least three amino acid residues, wherein two or more of said amino acids are independently substituted with a

glycosidic moiety having the structure: , wherein each occurrence of n is independently 1-8. Accordingly, these glycopeptides comprise carbohydrate domains that are separated from the peptide backbone by two or more carbon atoms.

Moreover, in the glycoconjugates claimed in the ‘856 patent, each carbohydrate domain is attached to a natural amino acid residue such as serine or threonine. In contrast, the carbohydrate determinant A of the presently claimed glycopeptides is attached to the peptide backbone via a non-natural amino acid due to the linker moiety. This difference (natural vs. non-natural) in attachment is expected to impart different properties to the claimed glycopeptides as compared to the glycoconjugates claimed in

the '856 patent, for example in terms of ease of preparation and/or strength of induced immune response. Furthermore, the synthetic methods disclosed in the present application for linking the carbohydrate determinants to the peptide backbone are novel over the '856 patent (*e.g.*, the alkenyl glycosides of claim 61). Applicant respectfully submits there is no overlap of subject matter between the present application and the '856 patent, nor is the claimed subject matter the present application obvious in light of the '856 patent.

Applicant notes that a nearly identical obviousness-type double patenting rejection was previously asserted against the '856 patent (then U.S.S.N. 10/205,021) over the instant application, but was removed in light of the explanation provided above (see Notice of Allowability for U.S.S.N. 10/205,021, mailed July 17, 2006).

Applicant respectfully submits that the present case is now in condition for allowance. A Notice to that effect is requested.

Please charge any fees that may be required for the processing of this Response, or credit any overpayments, to our Deposit Account No. 03-1721.

Respectfully submitted,

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